

ROBYN M. KITT, INDIVIDUALLY AND
AS PARENT AND NATURAL GUARDIAN
OF JASON L. RINI, JR., A MINOR,

Civil Action No. 15-225
Judge Nora Barry Fischer

MEMORANDUM ORDER

This is a civil rights case wherein Plaintiffs seek damages against the City of Pittsburgh and several of its police officers and supervisors stemming from a 2013 arrest of Robyn M. Kitt. (Docket No. 1). Presently before the Court are Plaintiffs’ First Amended Complaint, the Motion to Dismiss filed by Defendants City of Pittsburgh, the City of Pittsburgh Department of Public Safety Bureau of Police, former Chief of Police Nathan E. Harper, Director of Public Safety Michael Huss, former Acting Chief of Police Regina McDonald, Detective Alisa L. Duncan, Detective Antonio Ciummo, and Detective Leonard Duncan (the “City Defendants”), and Plaintiffs’ Reply Brief in Opposition, as well as oral argument presented at a Telephonic Status Conference held on August 3, 2015. (Docket Nos. 31, 33, 42). Plaintiffs argued in the alternative that they should be granted leave of court to file a Second Amended Complaint to separately plead a count for Supervisory Liability, to which City Defendants, through counsel, objected. (Docket No. 42 at 18; Oral Argument at Telephonic Status Conference). While City Defendants’ opposition to the request for leave to amend is well taken, leave to amend should generally be granted when justice so requires, particularly given the Court of Appeals’

instruction that leave to amend should be afforded prior to dismissal of a civil rights complaint. *See Fletcher–Harlee Corp. v. Pote Concrete Contractors, Inc.*, 482 F.3d 247, (3d Cir.2007) (“leave to amend must be granted *sua sponte* before dismissing [civil rights] complaints”). Here, Plaintiffs have set forth sufficient reasons for the proposed amendment as they have stated that they would like to cure deficiencies and voluntarily withdraw certain claims, and aver additional factual allegations, some of which presently appear in their brief and attachments. Accordingly, and for good cause shown, Plaintiffs are granted leave to file a Second Amended Complaint.

AND NOW, this 4th day of August, 2015, for the foregoing reasons,

IT IS HEREBY ORDERED that Plaintiffs’ request for leave to file a Second Amended Complaint is GRANTED; said Second Amended Complaint shall be filed on or before **August 17, 2015**.

IT IS FURTHER ORDERED that City Defendants’ Motion to Dismiss Plaintiffs’ Amended Complaint is DENIED without prejudice, given the Court’s grant of leave to amend.

IT IS FURTHER ORDERED, consistent with the Court’s Order at Docket No. [46], that no answer or responsive motion shall be filed until the Court disposes of Plaintiff’s Motion at Docket No. [43].

s/Nora Barry Fischer
Nora Barry Fischer
United States District Judge

cc/ecf: All counsel of record